

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

ARMANDO DESPAIGNE,

Plaintiff,

V.

MIKE NAUGHER, et al.,

Defendants.

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CV 02-PT-1506-M

03 SEP 22 PM 4: 02
DISTRICT COURT
N.D. OF ALABAMA

ENTERED
SEP 22 2003

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on July 11, 2003, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failure to state a claim upon which relief can be granted under 28 U.S.C. § 1915A(b). The plaintiff filed objections to the report and recommendation on August 8, 2003.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED, with one amendment.

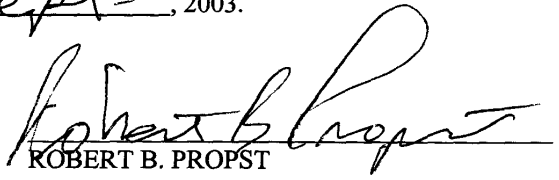
At the time the report and recommendation was entered, plaintiff had been transferred from Etowah County Jail to another detention facility. As such, the magistrate judge correctly recommended that plaintiff's requests for injunctive and declaratory relief be rendered moot. *Wahl v. McIver*, 773 F.2d 1169, 1173 (11th Cir. 1985). On August 25, 2003, the plaintiff informed the Court that his new address was the FCI Terre Haute, Indiana. (Doc. 33). Thus, his claims for injunctive and declaratory relief are in fact moot.

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Even if they were not, the renewal of a case or controversy is immaterial if plaintiff failed to state a claim upon which relief can be granted. Plaintiff has failed to state a claim upon which relief could be granted pursuant to 28 U.S.C. § 1915A(b). Accordingly, he is not entitled to any relief, and his complaint is due to be dismissed.

An appropriate order will be entered.

DATED this 20th day of Sept, 2003.


ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE